

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

MARCOS ANTONIO SANTOYA §
v. § CIVIL ACTION NO. 5:12cv28
WARDEN GROUNDS, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON DEFENDANT GROUNDS' MOTION TO DISMISS

The Plaintiff Marcos Santoya, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

One of the named Defendants, Warden Dawn Grounds, has filed a motion to dismiss the claims against her. On December 10, 2012, the Magistrate Judge issued a Report recommending that this motion be granted. Santoya received a copy of this Report on or before December 14, 2012, but has filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjection-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See* United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243

(1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 22) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Defendant Warden Dawn Grounds' motion to dismiss the claims against her (docket no. 12) is GRANTED and the Plaintiff's claims against Warden Grounds are hereby DISMISSED with prejudice. It is further ORDERED that the Defendant Warden Grounds is hereby DISMISSED as a party to this lawsuit. The dismissal of Warden Grounds shall have no effect upon the remainder of the Plaintiff's claims in this case.

It is SO ORDERED.

SIGNED this 24th day of January, 2013.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE